

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION**

In re

**TOP LINE GRANITE DESIGN, INC.,
Debtor**

**Chapter 11
Case No. 22-40216-EDK**

**RESPONSE OF SUBCHAPTER V TRUSTEE
TO MOTION OF UNITED STATES TRUSTEE TO CONVERT
OR DISMISS CASE**

NOW COMES Steven Weiss, Subchapter V Trustee (the “Trustee”), and submits the following response to the United States Trustee’s Motion to Convert or Dismiss Case [Docket No. 240, the Motion]:

1. The Trustee admits the allegations in ¶ 1 of the Motion.
2. The Trustee admits the allegations in ¶ 2 of the Motion.
3. The Trustee admits the allegations in ¶ 3 of the Motion.
4. The Trustee admits the allegations in ¶ 4 of the Motion.
5. The Trustee admits the allegations in ¶ 5 of the Motion.
6. The Trustee admits the allegations in ¶ 6 of the Motion.
7. The Trustee admits the allegations in ¶ 7 of the Motion.
8. The Trustee admits the allegations in ¶ 8 of the Motion.

9. The Trustee admits the allegations in ¶ 9 of the Motion, except the allegation that he has been unable to identify potential claims for recovery for the Debtor's creditors.

10. The Trustee admits the allegations in ¶ 10 of the Motion.

11. The Trustee admits the allegations in ¶ 11 of the Motion.

12. The Trustee admits the allegations in ¶ 12 of the Motion.

13. The Trustee admits that the Debtor has accrued losses during the Chapter 11 case and, if a sale is not consummated promptly, there is cause for conversion (but not dismissal) of the case.

14. The Trustee admits the accrued losses during the Chapter 11 case and the other matters set forth in ¶ 14 of the Motion and, if a sale is not consummated promptly, there is cause for conversion (but not dismissal) of the case.

15. The Trustee admits that if the pending sale does not close, the interests of the estate and creditors would be served by conversion of the case, rather than dismissal.

ADDITIONAL MATTERS

16. The Trustee has been diligently inquiring with counsel for the Debtor and the prospective purchasers. As of the date of this response, the Trustee has been advised that the purchaser still intends to complete the sale, and is taking steps to do so. The Debtor has also advised there may be an alternative purchaser who is willing to step in and acquire the Debtor's assets on an expedited basis. However, if sale cannot be consummated very soon, the Debtor's continuing losses make it unfeasible for it to continue operating in Chapter 11.

17. As set forth in the Trustee's Report, there are multiple potential causes of action and avoidance claims that could be pursued on behalf of creditors, including but not limited to: claims against insiders, e.g., 347 Middlesex Road Realty Trust, Top Paving, Inc., and others; preference claims; fraudulent transfer claims; claims against "hard money" lenders; and claims against John Testa and Kitchen Concepts, Inc. The aggregate amount of these claims is substantial. In addition, this Court recently entered an order against Brickstone Group, LLC for damages for its willful violation of the automatic stay.

18. If the case were to be dismissed, these claims could not be pursued on behalf of creditors and the estate.

19. For these reasons, while the Trustee generally concurs that if the sale is not consummated, the Debtor has no ability to effectively reorganize, conversion, not dismissal, would be the appropriate remedy.

Respectfully submitted this 21st day of February, 2023.

STEVEN WEISS
SUBCHAPTER V TRUSTEE

By: /s/ Steven Weiss
Steven Weiss, Esquire
BBO# 545619
Shatz, Schwartz and Fentin, P.C.
1441 Main Street, Suite 1100
Springfield, MA 01103
(413) 737 1131
sweiss@ssfpc.com

22\0137\Response.Motion.convert.1601

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION**

In re

**TOP LINE GRANITE DESIGN, INC.,
Debtor**

**Chapter 11
Case No. 22-40216-EDK**

CERTIFICATE OF SERVICE

I, Steven Weiss, of Shatz Schwartz and Fentin, P.C., do hereby certify that on February 21, 2023, a copy of the foregoing Motion to Appear Telephonically was mailed via electronic and/or first-class mail, postage pre-paid, to the following:

Top Line Granite Design, Inc.
P.O. Box 705
353 Middlesex Road
Tyngsboro, MA 01879

Alan L. Braunstein, Esq.
Reimer & Braunstein, LLC
100 Cambridge Street
Boston, MA 02114

/S/ Steven Weiss
Steven Weiss, Esquire